

INQUIRY CONCERNING A) Supreme Court
JUDGE, NO. 02-487) Case No. SC03-1171
_____))

The Florida Judicial Qualifications Commission ("Commission"), pursuant to Rule 12 of the Rules of the Judicial Qualifications Commission and Rule 1.340, Florida Rules of Civil Procedure, hereby responds to the Respondent's First Set of Interrogatories as follows:

1. The Commission objects to paragraphs 6, 7, 8, 10, 12 and 20 of the Preliminary Statement, Instructions and Definitions on the grounds that these paragraphs attempt to impose obligations and requirements in responding to discovery beyond those required by the Florida Rules of Civil Procedure.

2. Discovery is ongoing, and the witnesses and evidence may not be limited to what is identified in these answers to interrogatories.

3. Without waiving the objections set forth in paragraph 1 above, the Commission answers the interrogatories as follows:

INTERROGATORIES

Interrogatory No. 1

Identify each Person who participated in any way in the preparation of responses to these interrogatories (*including the gathering, analysis or preparation of responsive or related information*), including each Person's relationship to the Commission.

Charles P. Pillans, III - Special Counsel to the Florida Judicial Qualifications Commission.

Interrogatory No. 2

Identify each Person who is believed to have or known by you to have any knowledge of the facts alleged in the Notice of Formal Charges or any other matter relating to the Inquiry -- including any potentially exculpatory information -- and, as to each such person, specify the subject matter about which the Person has knowledge.

See persons identified in the Commission's Response and Supplemental Response to the Rule 12(b) Discovery Request.

In addition to the persons identified in the 12(b) responses, the following persons have or purport to have knowledge of matters relating to the Formal Charges:

- a. Ken Lawson, Assistant U.S. Attorney, 400 N. Tampa Street, Suite 3200, Tampa, FL 33602 - Said to have

been given copies of Air War College papers by the Respondent;

- b. John S. Vento, Esquire - See Affidavit;
- c. James C. Russick, Esquire - See Affidavit; and
- d. Derek Hammond, U.S. Army CID Forensic Laboratory, Fort Gillen, Georgia - See Report of Colonel David M. Leta.

Interrogatory No. 3

Identify all Persons whose testimony (whether in person, by affidavit, or otherwise) you will or may offer in connection with the pending Order to Show Cause, the proceedings before the Hearing Panel, or any other purpose relating to the Inquiry, and, as to each person, specify the subject matter of his or her testimony.

See persons identified in the Commission's Response and Supplemental Response to the Rule 12(b) Discovery Request.

Interrogatory No. 4

Identify each and every person that the Commission has interviewed or otherwise communicated with (whether orally, in writing, or by electronic means) regarding the Notice of Formal Charges or any other matter relating to the Inquiry.

The Commission objects to this interrogatory on the grounds that it seeks information protected by the attorney work product and attorney-client privileges, and is overly

broad and not calculated to lead to the discovery of admissible evidence.

Interrogatory No. 5

Identify each fact that supports, refutes, or otherwise relates to your contention, in paragraph no. 1 of the Notice of Formal Charges, that the "research report" attached to the Notice of Formal Charges as Exhibit "A" is an authentic, genuine, and accurate copy of the paper that Respondent submitted to the Air Force Air War College in 1998.

The Commission objects to this interrogatory to the extent that it requests the Commission to "[i]dentify each fact that supports, refutes, or otherwise relates to" the allegation that Exhibit "A" to the Notice of Formal Charges is "an authentic, genuine, and accurate copy of the paper that Respondent submitted to the Air Force Air War College in 1998" on the grounds that it seeks information protected by the attorney work product and attorney-client privileges, and is beyond the scope of what is required in discovery by the Florida Rules of Civil Procedure. Without waiving the foregoing objections, the following general facts support the charge:

(1) In 1997-98, the Respondent was enrolled in the Air War College at McDill Air Force Base, Tampa, Florida.

(2) As part of this course, the Respondent wrote a research paper on the Anglo-American Combined Bomber Offensive in Europe During World War II (the "Holder paper").

(3) The Respondent was the only member of the class who wrote on this topic.

(4) On or about September 5, 1997, Colonel E. David Hoard, at the Respondent's request, faxed to the Respondent a paper he had written on the same topic in 1995 for an Air War College course (the "Hoard paper").

(5) The Hoard paper was retyped at the computer terminal of the Respondent's legal assistant on or about December 5, 1997 and stored on the H drive of the Hillsborough County Courthouse computer network (the "H drive paper").

(6) Substantial portions of the H drive paper were incorporated verbatim into the Holder paper.

(7) The Respondent has admitted that the Holder paper bears his signature under the Certificate on page ii.

(8) The Holder paper bears the handwritten comments of Colonel William O. Howe, Jr., who was the grader of the 1997-98 Air War College research papers.

Interrogatory No. 6

Identify all Persons you expect or believe will offer testimony at any proceeding in the Inquiry that may be used to establish, pursuant to Florida's Evidence Code, the authenticity of Exhibit A to the Notice of Formal Charges filed in the Inquiry, and state, with specificity, the testimony establishing such authenticity.

See answers to Interrogatory Nos. 3 and 5.

Interrogatory No. 7

With respect to your allegation in paragraph 1 of the Notice of Formal Charges, that "you committed plagiarism in that approximately 10 pages of the 21-page research report submitted by you were copied verbatim or substantially verbatim from [Exhibit "B"]," identify:

- a. Each fact which supports, refutes, or relates to this allegation; and
- b. each witness and document that has or might have information that supports, refutes, or relates to this allegation.

The Commission objects to this interrogatory to the extent that it requests the Commission to identify "each fact which supports, refutes, or otherwise relates to" the allegation that Respondent "committed plagiarism in that approximately 10 pages of the 21-page research report submitted by [Respondent] were copied verbatim or substantially verbatim" from the Hoard paper on the grounds that it seeks information protected by the attorney work

product and attorney-client privileges, and is beyond the scope of what is required in discovery by the Florida Rules of Civil Procedure. Without waiving the foregoing objections, the Commission responds generally as follows:

See Answer to Interrogatory No. 5. A comparison of the Hoard, Holder and H drive papers will demonstrate what was copied verbatim or substantially verbatim.

Interrogatory No. 8

Identify all Documents in your possession, custody, or control that relate in any way to the allegations against Respondent in the Notice of Formal Charges, the Order to Show Cause, or any other matter relevant to the Inquiry, including, without limitation, all Documents that you expect to be offered in evidence at any proceeding in the Inquiry.

The Commission will produce all documents in its possession, custody, or control that relate to the allegations against Respondent in the Notice of Formal Charges and the Order to Show Cause.

The Commission objects to this interrogatory to the extent that it requests the identification of documents that relate to "any other matter relevant to the Inquiry" on the ground that it is vague and overly broad. Other than the Holder, Hoard and H drive papers, the Commission has not determined what documents it will offer in evidence.

Interrogatory No. 9

Identify each and every written or recorded statement taken from, and every interview conducted by or for the Commission of, any Person that relates in any way to the Inquiry.

The Commission objects to the request to the extent that it requests "interviews" as being ambiguous and on the ground that interview notes memorialized by memoranda prepared by Special Counsel for the Commission which are not verbatim statements of the witness are not "written statements [or] transcripts of testimony" as provided in Rule 12(b) and are protected by the attorney work product privilege.

The Commission has produced all written or recorded statements in its possession.

Interrogatory No. 10

Identify each Person retained as an expert relating to the Inquiry, whether or not such expert is expected to testify at any proceedings, and state:

a. The name and business address of such expert's employer;

b. The field or specialty in which that expert is employed, and his or her qualifications in such field or specialty; and

b. Identify any written reports, notes, or other documents prepared by such expert relating to the Inquiry.

No experts have been retained as of this time.

Interrogatory No. 11

With respect to each Person identified in response to Interrogatory No. 10, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

Not applicable.

Interrogatory No. 12

With respect to each expert identified in your answer to Interrogatory No. 10, state the scope of such expert's employment and his or her compensation for such services.

Not applicable.

Interrogatory No. 13

With respect to each expert identified in your answer to Interrogatory No. 10, state the expert's litigation experience, including the percentage of work performed for plaintiffs and defendants.

Not applicable.

Interrogatory No. 14

With respect to each expert identified in your answer to Interrogatory No. 10, identify, with specificity, all other cases in which the expert has testified by deposition or at trial.

Not applicable.

Interrogatory No. 15

With respect to each expert identified in your answer to Interrogatory No. 10, identify all books, treatises, articles, and other writings that such expert has authored, co-authored, or otherwise participated in preparing.

Not applicable.

Interrogatory No. 16

With respect to each expert identified in your answer to Interrogatory No. 10, state whether such expert has conducted any tests, inspections, or examinations; what was tested, inspected, or examined; the date of the test, inspection, or examination; and the results obtained.

Not applicable.

Interrogatory No. 17

With respect to each expert identified in your answer to Interrogatory No. 10, identify all Documents provided to, considered, reviewed, relied upon, or rejected in any way by such expert in connection with the Inquiry.

Not applicable.

Interrogatory No. 18

With respect to each expert identified in your answer to Interrogatory No. 10, identify all treatises, texts, periodicals or other materials relied upon by such expert in reaching any conclusion or opinion relating to the Inquiry.

Not applicable.

Interrogatory No. 19

With respect to each expert identified in your answer to Interrogatory No. 10, identify each and every Person that provided a statement to such expert, directly or indirectly, verbally or in writing, where such statement relates to the Inquiry.

Not applicable.

Interrogatory No. 20

State the name and address of each person who furnished the Commission with any fact that served, in whole, or in part, as the basis for any of the Formal Charges against Judge Holder, and state a brief summary of the facts supplied by each person named.

The Commission objects to this interrogatory on the ground that all matters relating to the investigation prior to the filing of the Notice of Formal Charges are confidential.

Interrogatory No. 21

As to your contention that Respondent should be suspended from office, either with or without compensation, while the Inquiry is pending, identify:

a. Each fact which supports, refutes, or relates to this allegation; and

b. each witness and document that has or might have information that supports, refutes, or otherwise relates to this allegation.

The Commission objects to this interrogatory on the ground that it seeks information protected by the attorney work product privilege. Without waiving the foregoing objection, the Commission responds generally as follows:

See Answers to Interrogatory Nos. 2 and 5.

AFFIDAVIT

STATE OF FLORIDA)
):ss
COUNTY OF DUVAL)

Charles P. Pillans, III, first being duly sworn, states that he has read the answers to the foregoing interrogatories, and acknowledges that he believes the same to be true.

Affiant

The foregoing instrument was acknowledged before me this _____ day of _____, 2003, by _____
_____. Such person did take an oath and () is personally known to me or () produced a current Florida driver's license as identification, number _____.

Signature of person taking oath

Name, typed, printed or stamped

NOTARY PUBLIC, STATE OF FLORIDA

Commission Number:_____

My Commission Expires:_____

INVESTIGATIVE PANEL OF THE FLORIDA
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- and -

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Certificate of Service

I DO HEREBY CERTIFY that a copy of the foregoing has been furnished to each of the following by United States Mail this _____ day of September, 2003.

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